

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ESTATE OF ERLINDA URSUA,)
LORENZO URSUA, individually)
and as Executor for the)
ESTATE OF ERLINDA URSUA,)
ROXANNE BAUTISTA and RHODORA)
URSUA,)

Plaintiff(s),)

v.)

ALAMEDA COUNTY MEDICAL)
CENTER, et al.,)

Defendant(s).)
_____)

No. C 04-3006 BZ

**ORDER DENYING MOTIONS FOR
JUDGMENT PURSUANT TO
F.R.C.P. 54(b)**

The motions of defendants Alameda County and Alameda County Medical Center for entry of judgment pursuant to Rule 54(b) are **DENIED** for the following reasons:

1. This is not a case in which judicial efficiency will be advanced by piecemeal appeals. Plaintiffs' claims against all of the defendants arise out of the same event, and the nature of the claims is such that an appellate court is likely to have to consider many of the same facts and issues if there are multiple appeals. See Curtiss-Wright Corp. v. General

1 Electric Co., 446 U.S. 1 (1980). See also Briscoe v.
2 Morrison-Knudsen Co., 776 F.2d 1414, 1416 (9th Cir. 1985)
3 (order under Fed. R. Civ. P. 54(b) proper only where necessary
4 to avoid a harsh and unjust result).

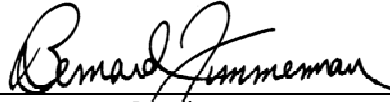
5 2. The prejudice to the plaintiffs in having to
6 prosecute appeals from the court's summary judgment in favor
7 of the moving defendants at the same time that the plaintiffs
8 are preparing for trial against the remaining defendant
9 outweighs the possible prejudice to the moving defendants if
10 there is no early appeal. See Briscoe, supra, 776 F.2d at
11 1416 ("Judgments under Rule 54(b) must be reserved for the
12 unusual case in which the costs and risks of multiplying the
13 number of proceedings and of overcrowding the appellate docket
14 are outbalanced by pressing needs of the litigants for an
15 early and separate judgment as to some claims or parties.")

16 It is not clear to the court why moving defendants must
17 participate as heavily in the upcoming trial as they assert.
18 If the remaining issues are as separable from the issues
19 involving these defendants as they assert in their motions,
20 their participation in the remaining pretrial and trial should
21 be minimal. While it is likely that their employees will be
22 called as witnesses during the trial, that likelihood would
23 not be reduced were plaintiffs required to appeal now.

24 3. Considering all the factors discussed in the parties'
25 papers, the court concludes that entry of final judgment now
26 as to these defendants would not "advance the interests of
27 sound judicial administration and justice to the litigants."
28 Curtiss-Wright, 446 U.S. at 5. Therefore, Alameda County's

1 and Alameda County Medical Center's motions for judgment are
2 **DENIED.**

3 Dated: February 14, 2006

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6 Bernard Zimmerman
United States Magistrate Judge

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